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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,695	09/22/2003	Dario Toledo	2272/025	9243

22440 7590 09/27/2007  
GOTTLIEB RACKMAN & REISMAN PC  
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NEW YORK, NY 10016-0601

EXAMINER
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NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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09/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,695	<b>Applicant(s)</b> TOLEDO, DARIO	
	<b>Examiner</b> Chi Q. Nguyen	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-41, 43, 45, 46, 50 and 53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-41, 43, 50 and 53 is/are rejected.
- 7) ☒ Claim(s) 45 and 46 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/18/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/26/2007</u> . | 6) <input checked="" type="checkbox"/> Other: <u>attachment</u> .                       |

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed 7/12/2007.

#### ***Status Of Claims***

Claims 1-38, 42, 44, 47-49, 51-52, and 54 have been cancelled.

Claims 39-41, 43, 45-46, 50, and 53 are pending and have been examined.

Upon further consideration, the previously allowable subject matters are withdrawn and with the new art and new rejections follow:

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39-41, 43, 50, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,768,722 to Olson et al.

Claims 39, :

Olson discloses an apparatus for guarding an interior area enclosed by three or more sides (see Fig. 1) comprising: a section of material 26; a plurality of pairing members 44; a plurality of fastening members 46 for fastening said material to a support structure 12 by said pairing members 44, at least one of said fastening members 46 comprising a tightening member T (see attachment of Fig. 1) and a handle portion H for holding said fastening members while attaching said fastening members to said structure; and a means for entrance and exit (no labeled but wherein two panels of material 26 shown in

Fig.1 can be open for entrance and exit); wherein said pairing members are connected to said material; and wherein each of said plurality of fastening members are constructed for attachment to said structure in a manner to permit fastening and unfastening from only one side of said material when fastening members are attached to said structure with the section of material (Figs. 1-4).

Claim 40:

Olson discloses an apparatus for guarding an interior area enclosed by three or more sides comprising: a section of material 26; a plurality of pairing members 44; a plurality of fastening members 46 for fastening said material to a support structure 12 by said pairing members 44, at least one of said fastening members comprising a hooked portion (see attachment of Fig. 2) for grasping an edge of said structure; and a means for entrance and exit (no labeled but shown in Fig. 1 wherein two panels of material 26 can be open for entrance and exit); wherein said pairing members are connected to said material; and wherein each of said plurality of fastening members are constructed for attachment to said structure in a manner to permit fastening and unfastening from only one side of said material when fastening members are attached to said structure with the section of material.

Claim 41:

Olson discloses an apparatus for guarding an interior area enclosed by three or more sides comprising: a section of material 26; a plurality of pairing members 44; a plurality of fastening members 46 for fastening said material to a support structure 12 by said pairing members 44, at least one of said fastening members 46 comprising a tightening

member 48/50 that works in conjunction with a hooked portion (see attachment of Fig. 2) to hold an edge of said support structure; and a means for entrance and exit (no labeled but shown in Fig. 1 wherein two panels of material 26 can be open for entrance and exit); wherein said pairing members 44 are connected to said material 26; and wherein each of said plurality of fastening members 46 are constructed for attachment to said structure in a manner to permit fastening and unfastening from only one side of said material when fastening members are attached to said structure with the section of material.

Claim 43:

Olson discloses an apparatus for guarding an interior area enclosed by three or more sides comprising: a section of material 26; a plurality of pairing members 44; a plurality of fastening members 46 for fastening said material to a support structure 12 by said pairing members 44; a plurality of hanging members 16, 22, 24 at a border of said section of material, said hanging members being selectively attachable from said border of said section of material; and a means for entrance and exit (no labeled but shown in Fig. 1 wherein two panels of material 26 can be open for entrance and exit); wherein said pairing members 44 are connected to said material 26; and wherein each of said plurality of fastening members 46 are constructed for attachment to said structure in a manner to permit fastening and unfastening from only one side of said material when fastening members are attached to said structure with the section of material.

Claim 50:

Olson discloses an apparatus for guarding an interior area enclosed by three or more sides comprising: a section of material 26; a plurality of pairing members 44 said pairing members comprising a rivet (see Figs. 3-4); a plurality of fastening members 46 for fastening said material to a support structure 12 by said pairing members; and a means for entrance and exit (no labeled but shown in Fig. 1 wherein two panels of material 26 can be open for entrance and exit); wherein said pairing members are connected to said material; and wherein each of said plurality of fastening members are constructed for attachment to said structure in a manner to permit fastening and unfastening from only one side of said material when fastening members are attached to said structure with the section of material.

Claim 53:

Olson discloses an apparatus for guarding an interior area enclosed by three or more sides comprising: a section of material 26; a plurality of pairing members 44; a plurality of fastening members 46 for fastening said material to a support structure 12 by said pairing members; and a means for entrance and exit said entrance and exit means being securable by a belt (see Fig. 1); wherein said pairing members 44 are connected to said material 26 (Figs. 3-4); and wherein each of said plurality of fastening members are constructed for attachment to said structure in a manner to permit fastening and unfastening from only one side of said material when fastening members are attached to said structure with the section of material.

***Allowable Subject Matter***

Claims 45-46 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 39-41, 43, 50, and 53 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

9/18/2007  
CQN

/JEANETTE CHAPMAN/  
PRIMARY EXAMINER  
ART UNIT 3635

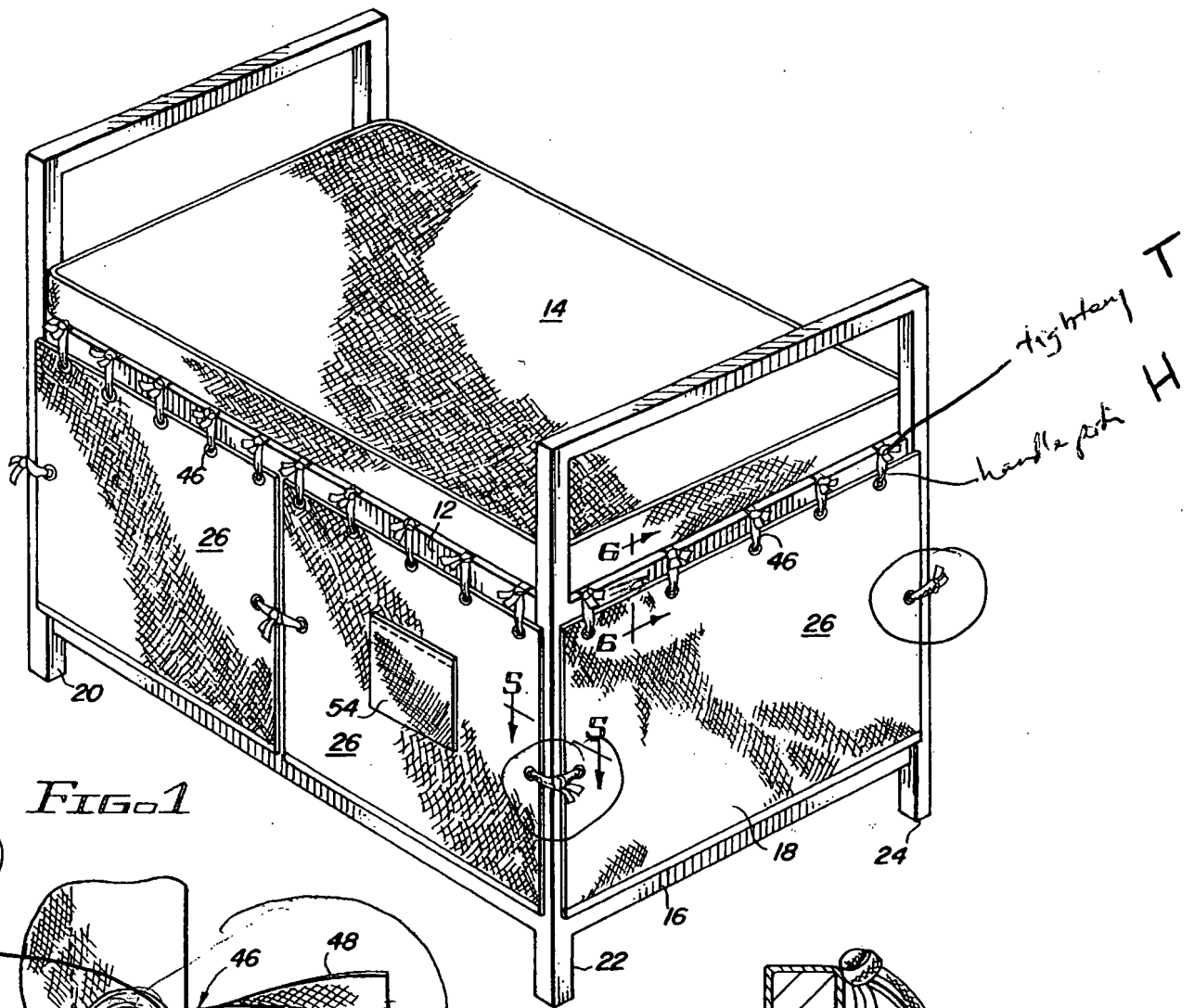


FIG. 1

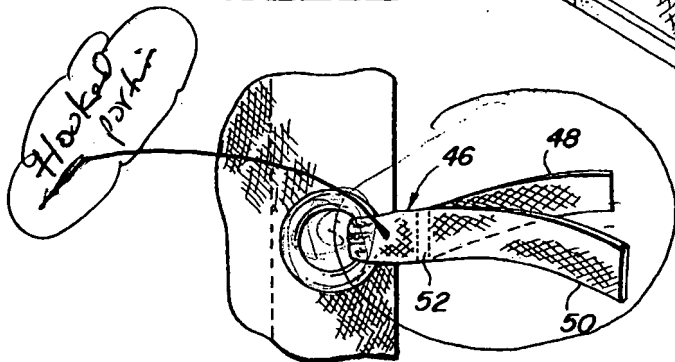


FIG. 2

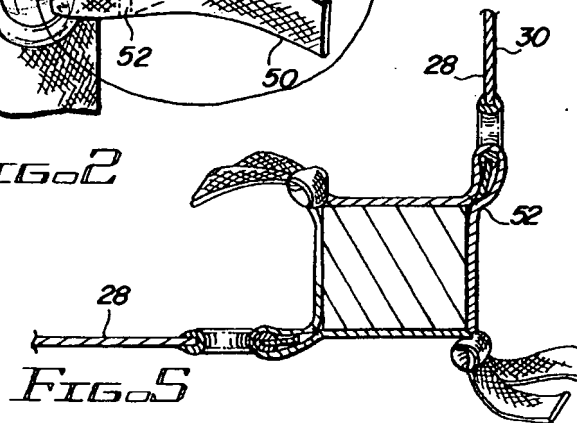


FIG. 5

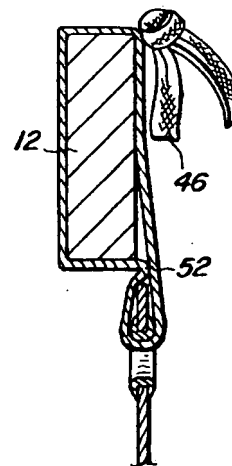


FIG. 6